

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

November 2, 2010

TO: Internal File

THRU: Steve Christensen, Team Lead *SC*

FROM: Angela Nance, Business Analyst *an*

RE: Midterm Permit Review, Sunnyside Cogeneration Association, Sunnyside Refuse & Slurry, C/007/0035, Task ID #3655

SUMMARY:

In accordance with R645-303-211, the Division is required to review each active permit during its term. The Division commenced the Midterm Review for the Sunnyside Refuse and Slurry on June 3, 2010. Deficiencies were identified and on August 4, 2010. A response to the deficiencies was received on October 14, 2010. This Technical Memorandum reviews the ownership and control information to insure that it is current and correct as compared to the information found in the Applicant Violator System (AVS).

The findings in this memo are based on a review of the current Mining and Reclamation Plan (MRP) and the information submitted in response to the discrepancies identified in the August 4, 2010 deficiency letter.

All deficiencies have been addressed. Approval is recommended **conditioned upon receiving a Secretary's Certificate for William Langan, Director for Colmac Sunnyside, Inc. so that his information can be added to the AVS database.**

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TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

Legal and financial information can be found Book 1 of the Sunnyside Refuse and Slurry Mining and Reclamation Plan. Sunnyside Cogeneration Associates is a Utah joint venture – which is essentially a partnership between Sunnyside Holdings I, Inc. and Sunnyside II, L.P. Therefore, Book 1 of the MRP provides information for Sunnyside Holdings I, Inc. and Sunnyside II, L.P. and their parent or controlling operations. This section of the MRP was last updated in February 2008.

Findings:

Ownership and Control information was submitted on October 14, 2010 to address deficiencies that were identified in accordance with **R645-301-112.330**.

- **CP Sunnyside I, Inc.**

1. The MRP shows **Michael J. Blakey** as an active officer. However, the AVS database shows Mr. Blakey with an End Date of 6/10/2009. *Please address this discrepancy.*

Michael J. Blakey has been removed from the Officers and Directors list for CP Sunnyside I, Inc.

- **Sunnyside II, Inc. & Sunnyside III, Inc.**

1. The MRP shows **Michael J. Blakey** as an active officer. However, the AVS database shows Mr. Blakey with an End Date of 6/10/2009. *Please address this discrepancy.*

Michael J. Blakey has been removed from the Officers and Directors list for Sunnyside II, Inc.

- **Colmac Sunnyside, Inc.**

1. The MRP shows **Greg Lawyer** as an active officer and director. However, the AVS database shows Mr. Lawyer with an End Date of 7/15/2009. *Please address this discrepancy.*

Greg Lawyer has been removed from the Officers and Directors listed under Colmac Sunnyside, Inc.

2. The AVS database shows **Chris Thompson, President and Director** with a Begin Date of 7/15/2009. This information is not in the MRP. *Please address this discrepancy.*

Chris Thompson, President and Director have been added to the Officers and Directors list.

3. The MRP shows **William Cangan** as **Assistant Secretary**. This information is not in the AVS. *Please address this discrepancy with a Secretary's Certificate.*

William Cangan, Assistant Secretary has been removed from the Officers and Directors list

- **Sunnyside Holdings I, Inc.**

1. The MRP shows **Greg Lawyer** as an active officer and director. However, the AVS database shows Mr. Lawyer with an End Date of 7/15/2009. *Please address this discrepancy.*

Greg Lawyer has been removed from the list of Officers and Directors for Sunnyside Holdings I, Inc.

2. The AVS database shows **Chris Thompson, President and Director** with a Begin Date of 7/15/2009. This information is not in the MRP. *Please address this discrepancy.*

Chris Thompson, President and Director have been added to the list of Officers and Directors.

3. The MRP shows **William Cangan** as **Assistant Secretary**. This information is not in the AVS. *Please address this discrepancy with a Secretary's Certificate.*

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William Cangan, Assistant Secretary has been removed from the list of Officers and Directors.

- **Savage Services Corporation**

1. The MRP shows **C. Scott Smith** as an active officer. This information is not in AVS. *Please address this discrepancy with a Secretary's Certificate.*
2. The AVS database shows the following officers/directors as active, however, this information is not listed in the Sunnyside Refuse and Slurry MRP. *Please address this discrepancy.*

<i>L. Reese</i>	<i>Treasurer</i>	<i>1/20/2003</i>
<i>Eric Adamson</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Arthur Johnson</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>C. Busch</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Raymond Alt</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Kenneth Cooper</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Kim Christensen</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Kenneth Ellzey</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Boyd Draper</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>M. Savage</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Terrence Savage</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Ellis Edwards</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Charles Monroe</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Jeff Chester</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Troy Reid</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Mark Wehmanen</i>	<i>SVP</i>	<i>1/20/2003</i>
<i>Gary Plant</i>	<i>SVP</i>	<i>1/20/2003</i>

The Permittee noted that Savage Services Corporation is a contractor for SCA and not an "owner" or "controller". The individuals listed above are employees of Savage and not of SCA and therefore their information is not needed as part of this review.

- **Sunnyside II, L.P.**

1. The MRP indicates that SCA is a joint venture between Sunnyside Holdings I, Inc. and Sunnyside II, L.P. and therefore the corporate information for SCA can be found under these two companies. However, there is no corporate information provided for Sunnyside II, L.P. *Please provide the corporate information for this company, or if none exist please provide an explanation of why there are no officers or directors listed for this company.*

The Permittee noted that Sunnyside II, L.P. is a limited partnership whose partners are Sunnyside II, Inc. and Sunnyside III, Inc. and therefore it does not have separate officers or directors.

- **Sunnyside Generation, LLC**

1. *Please provide the corporate information for this company, or if none exist please provide an explanation of why there are no officers or directors listed for this company.*

The Permittee noted that Sunnyside Generation, LLC is a limited liability company with two members, CP Sunnyside I, Inc. and Colmac Sunnyside, Inc and therefore it does not have separate officers or directors.

The following companies are listed as owners or controllers in AVS, but are not listed in the Mining and Reclamation Plan. *Please address this discrepancy.*

- **Mcdermott International, Inc.**
- **Mcdermott, Inc.**
- **Babcock and Wilcox Investment Co.**
- **Babcock and Wilcox Co.**
- **Babcock and Wilcox Equity Investment, Inc.**
- **Northern States Power Co.**
- **Nrg Energy, Inc.**

The above-listed companies sold their interests in SCA to the current entities on August 31, 1999. These companies do not need to be listed in the MRP as owners or controllers.

Lastly, please provide an explanation of the relationship between COSI and SCA, ACI and SCA and Constellation Energy Co. and SCA.

The Permittee clarified the relationship between COSI and SCA, ACI and SCA, and Constellation Energy Co. and SCA. Individuals at COSI, ACI and Constellation Energy Co. provide some services to SCA through various contracts. They are not owners or controllers.

RECOMMENDATIONS:

The Midterm Permit Review is recommended for approval.